

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**November 18, 2008**

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Weisberg, J. (Assigned), Dunning, J. (Assigned)  
and P. Silva, Deputy Clerk.

Each of the following:

B186622 People v. Mvuemba  
B194476 People v. Chavez  
B197787 People v. Iniquez  
B199617 People v. Keller & Offley  
B201373 People v. Liner  
B202010 People v. Rodriguez  
B202130 People v. Earles  
B202424 People v. Nicholas  
B204042 Williams et al. v. Ablakhad  
B204090 People v. Burke  
B204406 DCFS v. R.E.  
B205236 DCFS v. C.J.  
B205576 DCFS v. T.D.  
B205899 People v. Rosas  
B206064 People v. Hok  
B206390 People v. Rivero  
B206590 DCFS v. N.S.

Argument waived, cause submitted.

B202505      People v. Martinez

Matter continued to November 19, 2008.

DIVISION ONE (continued)

Each of the following:

B198309 Clark v. Mazgani  
B198375 BCX International, Inc., v. Y111 Holdings  
B201720 People v. Martir  
B202617 Freedman v. State Farm Insurance  
B204479 City of Los Angeles v. WCAB  
B205040 Burk v. Arcadia Police Department

Argument continued to December 17, 2008.

B206209 People  
v.  
J.S.

Merits:

Argued by David E. Durchfort for appellant and argument waived by Erika D. Jackson, Deputy Attorney General for respondent. Cause submitted.

B204505 People  
v.  
Joseph Harmon

Merits:

Argued by Joan Wolff for appellant and by Corey J. Robins, Deputy Attorney General for respondent. Cause submitted.

B205225 People  
v.  
C.G.

Merits:

Argued by Courtney Selan for appellant and by David Zarmi, Deputy Attorney General for respondent. Cause submitted.

DIVISION ONE (continued)

B205682     People  
              v.  
              Kelley Robinson

Merits:  
Argued by Donald R. Wager for appellant and by David Zarmi, Deputy Attorney General for respondent. Cause submitted.

B196395     Ahsan Mohiuddin  
B203745     v.  
              First Transit, Inc., et al.

Merits:  
Argued by Ahsan Mohiuddin appellant in propria persona, by R. Wesley Bevers for respondent First Transit and by Brian G. Buron for respondent City of Los Angeles. Cause submitted.

B204405     People  
              v.  
              R.C.

Merits:  
Argued by Thomas S. Hsieh, Deputy Attorney General for respondent and no appearance by Katherine E. Greenbaum for appellant. Cause submitted.

B198074     People  
              v.  
              Hercules B. Reyes  
              Ronald A. Loaiza

Merits:  
Argued by Robert F. Howell for appellant Loaiza and by Timothy M. Weiner, Deputy Attorney General for respondent. Argument waived by Joseph C. Shipp for appellant Reyes. Cause submitted.

DIVISION ONE (continued)

B200018     People  
              v.  
              Willie Ware

Merits:

Argued by Sara H. Rudy for appellant and by Laura J. Hartquist, Deputy Attorney General for respondent. Cause submitted.

B205375     Los Angeles County, D.C.F.S.  
              v.  
              M.S., Sr., et al.

Merits:

Argued by D.S. appellant in propria persona and by Amir Pichvai for respondent Department of Children and Family Services. Maureen L. Keaney previously waived argument for appellant Michael S., Sr., and Aida Aslanian previously waived argument for appellant Michael S. Cause submitted.

Court in recess.

Court reconvenes at 10:39 a.m.

Present: Mallano, P.J., Rothschild, J., Weisberg, J. (Assigned), Dunning, J. (Assigned) and P. Silva, Deputy Clerk.

B203537     Los Angeles County, D.C.S.  
              v.  
              A.M.

Merits:

Argued by Harry Zimmerman for appellant and by Aleen Langton for respondent. Cause submitted.

Dunning, J. (Assigned), leaves the bench.

DIVISION ONE (continued)

B205209      Frits Vanschaik et al.  
                 v.  
                 Magic Acquisition Corp.

Merits:  
Argued by Jeanne L. Tollison for appellant and by Larry H. Clough for  
respondents. Cause submitted.

Court adjourned.

DIVISION TWO

B200359      County of Los Angeles      (Not for Publication)  
                 v.  
                 Fairmont Specialty Group

The judgment is affirmed. The County shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur:    Boren, P.J.  
                 Chavez, J.

B204550      Employers Mutual Casualty Co.      (Not for Publication)  
                 v.  
                 Philadelphia Indemnity Ins. Co.

The judgment is affirmed. The parties shall bear their costs on appeal.

Ashmann-Gerst, J.

We concur:    Doi Todd, Acting P.J.  
                 Chavez, J.

## DIVISION TWO(continued)

[illegible]

The judgment is modified by striking the section 667.9 finding and vacating the one-year term imposed pursuant to that enhancement with respect to count 1, the felonious assault. In all other respects, the judgment is affirmed. The superior court shall have its clerk prepare and send to the California Department of Corrections and Rehabilitation an amended abstract of judgment reflecting the modification to the judgment.

Ashmann-Gerst, J.

We concur: Boren, P.J.  
Doi Todd, J.

B201976 People (Not for Publication)  
v.  
Daire

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                  Doi Todd, J.

## DIVISION THREE

B198980 People (Not for Publication)  
v.  
Gonzales

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

DIVISION THREE (continued)

B207298      City of Los Angeles                      (Certified for Publication)

v.

Superior Court, Los Angeles County  
(Collins, et al., r.p.i.)

The petition for writ of mandate is granted. Let a peremptory writ of mandate issue directing the trial court to vacate its order of February 2, 2008, and enter a new order consistent with the views expressed in this opinion. The city is entitled to recover its costs in this writ proceeding.

Croskey, J.

We concur:   Klein, P.J.  
                     Aldrich, J.

B206183      People    (Not for Publication)

v.

Standard

The judgment is modified to reduce the conviction of first degree burglary from first to second degree burglary. In all other respects, the judgment is affirmed and the matter is remanded to the trial court for resentencing.

Klein, P.J.

We concur:   Croskey, J.  
                     Kitching, J.

B201071      People    (Not for Publication)

v.

Roberts, et al.

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                     Aldrich, J.

November 18, 2008 (Continued)

### DIVISION THREE (continued)

B203831 People (Not for Publication)  
v.  
Huerta

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

[illegible]

The judgment is affirmed.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION FOUR

B203993      Weinstein      (Not for Publication)  
v.  
Phaim

The judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.  
Suzukawa, J.



DIVISION FOUR (continued)

B179134      Clayton et al.                      (Not for Publication)  
                         v.  
                         Fisher et al.

The orders quashing service of process upon the Ohio banks, now Huntington National Bank, are affirmed. Huntington National Bank shall have costs on appeal from appellants.

The judgments in favor of Guardian Capital V, LLC, Guardian Capital VIII, LLC, Guardian Capital IX, LLC, Guardian Capital XIV, LLC, Guardian Capital XVIII, LLC, Guardian Financial Inc., Diversity Capital II, LLC, Citibank, N.A., Ameriana Bank & Trust of Indiana, Atlantic Coast Federal, Bank of Waukegan, Riverway Bank, Bluebonnet Savings Bank, FSB, United Security Bank, American Motorists Insurance Company and RLI Insurance Co., are vacated and remanded to allow a motion to amend to substitute a new plaintiff or plaintiffs with standing, and for other proceedings consistent with this opinion. As between appellants and these respondents, each party shall bear his/her/its own costs.

The appeal from orders entered in favor of Epic Funding Corporation, Netbank, Footbridge Limited Trust, Lakeland Bank, General Electric Capita Corporation, Guardian Capital VI, Guardian Capital XV, Royal and Sun Alliance U.S.A., U.S. Bancorp and Cash Recovery, is dismissed.

These respondents shall have costs on appeal from appellants.

Any motion for leave to amend must be filed in the trial court within 30 days of the filing of the remittitur. If no motion is filed within the allotted time, or if such motions are denied, the court shall enter a judgment dismissing the action as to unnamed plaintiffs.

Manella, J.

We concur: Willhite, Acting P.J.  
                         Suzukawa, J.

DIVISION FOUR (continued)

B202611      Playhut, Inc.      (Not for Publication)  
v.  
United Development Enterprises

The judgment entered on the complaint and cross-complaint is affirmed. The parties to bear their own costs in this proceeding.

Willhite, J.

We concur: Epstein, P.J.  
Manella, J.

B203085      Callil      (Not for Publication)  
v.  
California Physicians' Service

The judgment is reversed. Appellant(s) to recover costs.

Willhite, J.

We concur: Epstein, P.J.  
Manella, J.

B202788      Los Angeles County, D.C F.S.      (Not for Publication)  
v.  
S.S., et al.

The court's dispositional and jurisdictional orders are affirmed with the exception of the portion of the dispositional order that concerned visitation. The appeal from that portion of the dispositional order is dismissed as moot.

Manella, J.

We concur: Epstein, P.J.  
Suzukawa, J.

November 18, 2008 (Continued)

## DIVISION FOUR (continued)

B198714 People (Not for Publication)  
v.  
Stewart

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.  
Manella, J.

B202919 People v. Doherty (Not for Publication)

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The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.  
Manella, J.

B207978 People v. Luna

(Not for Publication)

The order is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.  
Willhite, J.

DIVISION FOUR(continued)

B206022      Los Angeles County, D.C F S      (Not for Publication)  
v.  
R.D., et al.

The portion of grandmother's appeal challenging the denial of the section 827 petition is dismissed. The other orders are affirmed.

Epstein, P.J.

We concur:    Manella, J.  
                     Suzukawa, J.

B201376      People      (Not for Publication)  
v.  
Dean

The judgment is affirmed.

Epstein, P.J.

We concur:    Willhite, J.  
                     Manella, J.

B200436      People      (Not for Publication)  
v.  
Acuna

The sentence on count 1 is stayed. The matter is remanded to the trial court to correct the abstract of judgment and minute order so they are consistent with the judgment and to forward the modified abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

Epstein, P.J.

We concur:    Manella, J.  
                     Suzukawa, J.

DIVISION FIVE

B207420      Alicia Benham  
B209474      v.  
B211297      S & J Security

Filed order consolidating above captioned appeals under case number B207420.

DIVISION SIX

B204552      Brown      (Not for Publication)  
v.  
County of Ventura

The judgment is affirmed. Each party will bear its own costs on appeal. (Cal. Rules of Court, rule 8.278, subd. (a)(5).)

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

B210505      H.F. and R.V.,      (Not for Publication)  
v.  
San Luis Obispo Superior Court  
(San Luis Obispo County Department of Social Services, r.p.i.)

The petitions for extraordinary writ are denied.

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

B196583      Widders  
v.  
Furchtenicht

Filed order denying petition for rehearing.

## DIVISION SEVEN

B206801 People v. Pinzon (Not for Publication)

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The judgment is affirmed.

Perluss, P.J.

We concur:   Zelon, J.  
                      Jackson, J.

DIVISION EIGHT

B203279 People (Not for Publication)  
v.  
Don Darrett

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.  
Flier, J.

B199591 Fu Wang (Not for Publication)  
v.  
King Drew Medical Center et al.,

Wang has not demonstrated that the trial court abused its discretion in denying his motion for a new trial court erred in granting summary adjudication of his contract-based claims. The judgment is affirmed. Defendants are to recover their costs on appeal.

Bigelow, J.

We concur: Rubin, Acting P.J.  
Flier, J.

DIVISION EIGHT (continued)

B204225      Robert Benjamin                      (Not for Publication)  
                 v.  
                 Thomas L. Simpson

The judgment is affirmed. Respondent Thomas L. Simpson is awarded his costs on appeal.

Bigelow, J.

We concur:    Cooper, P.J.  
                 Flier, J.

B206874      People    (Not for Publication)  
                 v.  
                 E.J.,  
                 In re E.J., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed.

Bigelow, J.

We concur:    Cooper, P.J.  
                 Flier, J.

B204078      Stephen Harris                                  (Not for Publication)  
                 v.  
                 City of Culver City et al.,

The order of dismissal is affirmed. Respondents shall recover their costs on appeal.

Rubin, J.

We concur:    Cooper, P.J.  
                 Bigelow, J.

DIVISION EIGHT (continued)

B195725      Maria Watanabe                      (Not for Publication)  
v.  
California Physicians' Service

The judgment is affirmed. Respondent is to recover its costs on appeal.

Flier, J.

We concur:    Cooper, P.J.  
Bigelow, J.

B200662      Thomas McGrath                      (Not for Publication)  
v.  
Associated Ready Mixed Concrete, Inc., et al.,

The judgment is affirmed. Respondents are to recover costs on appeal.

Flier, J.

We concur:    Cooper, P.J.  
Rubin, J.

B201961      Charlotte Spadaro                      (Not for Publication)  
v.  
Bark Avenue et al.,

The judgment is affirmed. Respondents are to recover costs on appeal.

Flier, J.

We concur:    Rubin, Acting P.J.  
Bigelow, J.